



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 13-6

February 11-15, 2013

## 2013 LEGISLATION

To date, 979 Senate bills have been introduced and House bills have reached 1,419.

### GREEN BAG APPOINTMENTS

Under the Maryland Constitution, the Governor nominates and, with the advice and consent of the Senate, appoints all civil officers and officials of the State whose appointment or election is not otherwise provided in the constitution or in the laws. The constitution requires the Governor to submit nominations of civil officers to the Senate of Maryland within 40 days of the beginning of each regular session.

The appointments, known as the Green Bag appointments, are submitted in a green leather bag, embossed with the Maryland Great Seal and modeled on the green bags used by English barristers of old to convey official documents. When it is not being used in the annual presentation ceremony, the Green Bag resides at the State Archives.

This year, the list of gubernatorial appointments was delivered in the official Green Bag of Maryland to the President of the Senate on February 15 at the morning session because the 40<sup>th</sup> day falls on Sunday, February 17. The Senate Executive Nominations Committee examines all of these nominations.

### COURTS AND CIVIL PROCEEDINGS

[HB 78](#), reported to the House floor with a favorable committee vote, creates a rebuttable presumption of liability for the owner of a dog who has caused a death or personal injury. The companion bill is [SB 160](#).

Also introduced as emergency legislation, [HB 618](#) establishes that the owner of a dog running at large is liable for damages for personal injury or death caused by a bite from the dog, regardless of whether the dog has shown any vicious or dangerous propensities or whether the owner knew or should have known of the dog's propensities.

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### Death Penalty Legislation

This week, Senate and House committees heard testimony from the Governor and other Marylanders, both for and against the Governor's death penalty repeal bills, [SB 276](#) and [HB 295](#). The legislation repeals the death penalty and requires the Governor to include \$500,000 for the State Victims of Crime Fund in the annual budget. Without the death penalty, an individual found guilty of first degree murder would be sentenced to life imprisonment or life imprisonment without the possibility of parole.

Under the bill, if the State has already filed a notice of intent to seek a death sentence, that notice must be considered withdrawn. In that case, the State must also be considered to have properly filed notice to seek a sentence of life imprisonment without the possibility of parole.

Currently, the death penalty is restricted to cases proven by the introduction of biological or DNA evidence linking the defendant with the murder, a videotaped voluntary confession by the defendant, or a video recording that proves the defendant committed the murder.

The State Victims of Crime Fund receives most of its funding from Criminal Injuries Compensation costs. It pays to carry out laws to help crime victims, to help agencies that provide services to crime victims, and to support child advocacy centers for crime victims. The \$500,000 allocated to the Fund is presumed to come from what the State saves by repealing the death penalty.

Two additional death penalty bills were also before committees this week. [HB 441](#) is a constitutional amendment that authorizes the General Assembly to create a Death Penalty Court with exclusive jurisdiction over offenses eligible for the death penalty. [SB 480](#) requires a court or jury to consider as an aggravating circumstance whether a defendant committed murder on the property of a public or private school or child care facility in determining whether to impose the death sentence.

### *Crime of Violence – Presence of a Minor*

[SB 861/HB 478](#) strengthen the penalty against a person who commits a violent crime if the person knows or should know that a child between the ages of two and 16 in the household is within sight or hearing of the crime. If convicted, a person is subject to a penalty of up to five years in prison, in addition to any other sentence received for the crime.

### *Possession of Marijuana*

A Senate committee took comments this week on [SB 297](#), which changes the possession of less than 10 grams of marijuana from a criminal offense to a civil offense, and reduces the penalty to a fine of up to \$100. Additional bills on marijuana and synthetic cannabinoids include [SB 394](#), [SB 651/HB 851](#), and [SB 348/HB 262](#).

---

## **EDUCATION**

### *Public Education – Certification of Net Taxable Income*

[HB 229](#), an Administration bill that changes the calculation of State aid for public education, received consideration by a House committee recently. The bill requires State education aid formulas that include a local wealth component to be calculated twice, once using a net taxable income (NTI) amount for each county based on tax returns filed by September 1 and once using an NTI amount based on tax returns filed by November 1 to account for late filers. Each local school system then receives the greater State aid amount of the results from the two calculations. The increased State aid will be phased in over a five-year period, beginning in fiscal 2014. The companion bill is [SB 277](#).

The Governor's proposed fiscal 2014 budget includes \$8.3 million in education aid that is contingent upon enactment of legislation altering the calculation of NTI for State education aid program formulas. Approximately 75% of State aid to public schools is distributed inversely to local wealth so that less affluent school systems receive proportionally more State aid.

Currently a county's wealth, for the purpose of calculating State education aid, is the sum of 40% of real property assessable base, 50% of personal property assessable base, 100% of public utilities' assessable base, and 100% of NTI of county residents. The property bases are determined as of July 1 of the previous fiscal year, and NTI is computed from September 1 of the second preceding calendar year.

### *Education Trust Fund – Security and Mental Health*

In the wake of recent events, issues surrounding school safety and mental health have dominated policy debate. In terms of current security personnel in Maryland public schools, the Maryland Department of Education reports that there are 302 school resource officers for the 1,437 schools in the State. As for counselors within schools, the Department of Legislative Services estimates that there is generally one certified school counselor in an elementary school, and from two to five within middle and high schools, depending on the size of the student population.

A House committee has debated [HB 138](#), which expands the authorized use of the video lottery and table game proceeds credited to the Education Trust Fund (ETF) to include providing funds for security personnel and equipment, as well as expanding mental health services at public elementary and secondary schools. Currently, ETF funds are dedicated to the continued funding of the Bridge to Excellence formulas, as well as school construction and early childhood programs. [SB 450](#) is similar legislation.

---

## **ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE**

Testimony was heard this week on bills that increase the maximum civil and administrative penalties for violations of the Water Pollution Control subtitle of the Environment Article:

- [SB 289](#) increases the maximum administrative penalty from \$5,000 to \$10,000 for each violation. The crossfiled bill is [HB 799](#); and
- [SB 302](#) increases the maximum civil penalty from \$10,000 to \$20,000 per violation and increases the maximum administrative penalty from \$5,000 per violation and \$50,000 total to \$10,000 per violation and \$100,000 total. The bill also requires the Maryland Department of the Environment to annually publish on its website the total amount of sewage overflow, in gallons, from sewerage systems into the Chesapeake Bay and its tributaries during the previous year, as well as the fines collected as a result of the sewage overflows.

Among other bills heard recently, [SB 208](#) expresses the General Assembly's intent that the Department of Natural Resources (DNR) employs at least 435 Natural Resources Police (NRP) officers by fiscal 2023. Beginning in fiscal 2015, to the extent funds are available, NRP may increase the number of cadets and recruits enrolling in the NRP academy until the size of

the NRP force is sufficient to meet DNR's mission. The crossfiled bill is [HB 215](#).

---

## **FISCAL MATTERS**

### *Tobacco Tax*

This week, the Senate passed an amended [SB 69](#), which increases the amount of cigarettes and other tobacco products that a consumer may bring into the State without being required to pay the tobacco tax. The current allowance, two packages of cigarettes or \$5 for other tobacco products, is raised to five cartons of cigarettes or \$100 for other tobacco products. The bill also increases and makes mandatory the fines for willfully shipping, importing, selling into or within, or transporting within the State cigarettes or other tobacco products on which the tobacco tax has not been paid.

### *Tax Credits*

An emergency bill, [SB 183](#), concerning the film production activity tax credit, increases from \$7.5 million to \$25 million the total amount of tax credits the Department of Business and Economic Development (DBED) may award in fiscal 2014 only to qualified film production entities under the film production activity tax credit. The bill also extends the termination date of the credit by two years to July 1, 2016.

[SB 203/HB 386](#) expand the existing research and development (R&D) tax credit by increasing to \$18 million the total amount of credits that DBED can approve in each calendar year. Under the bills, a small business may claim a refund if it has an allowable credit that exceeds its State income tax liability for that year. A small business is defined as one with less than \$5 million net book value at the beginning or end of the year for which the qualified Maryland R&D expenses are incurred.

[SB 824/HB 513](#) create a State income tax credit for classroom expenses and supplies that are purchased by a teacher. The amount of the credit may not exceed \$500 or the tax liability imposed in that year.

### *Vessel Excise Tax – Maximum Tax*

Effective July 1, 2013, [SB 90/HB 548](#) establish a maximum vessel excise tax amount of \$10,000 per vessel. Currently, except under specified conditions, an excise tax is levied at the rate of 5% of the fair market value of a vessel on the issuance of every original certificate of title; the issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel; the sale within the State of every other vessel;

and the possession within the State of a vessel purchased outside the State to be used principally in the State.

The excise tax serves as the major source of funding for the Water Improvement Fund (WIF) and, consequently, public boating projects. Due to a significant decrease in boat sales in recent years, WIF revenues have declined by 50% since fiscal 2006. Some boating advocates suggest that capping the vessel excise tax will increase boat sales and prompt boaters to relocate vessels to Maryland, effectively increasing funding for public boating-related projects.

### *State Retirement and Pension System (SRPS) Funding*

Several bills this session change the formula the State uses for funding its retirement systems. [SB 474/HB 496](#) respond to a 2012 legislative directive to the Department of Legislative Services and the State Retirement Agency to develop a joint plan to phase out the current corridor funding method, adjust actuarial funding assumptions, and generate both short- and long-term savings for the State. These bills accomplish two points of the four-point plan by phasing out the corridor funding method over 10 years and replacing the current tiered amortization method with a closed, 25-year amortization period for all existing and future liabilities. The two remaining points will reduce the board's inflation assumption from 3% to 2.8% and lower the board's investment return assumption from 7.75% to 7.55% over four years (five basis points each year).

Another measure, [HB 239](#), phases out the corridor funding method for the SRPS over a 10-year period.

---

## **GAMING, RACING, AND SPORTS**

### *Purchase of Lottery Tickets Online*

The State Lottery and Gaming Control Agency (SLGCA) submitted a report in September 2012 that outlined its objective to provide what was to be known as iLottery. iLottery allows for the purchase of traditional lottery games through personal computers and mobile devices. Under the proposal, customers would sign up for an account, fund their "digital wallet," and browse and purchase same-day games and subscriptions.

In law today, there are no regulatory or statutory provisions that prohibit SLGCA from selling lottery games over the Internet. However, a Senate committee took testimony this week on [SB 272](#), which prohibits the SLGCA from adopting regulations to allow the purchase of a State lottery ticket online with a personal computer, mobile, or other internet-connected device, unless authorized by the General Assembly.

## HEALTH CARE AND HEALTH INSURANCE

### *Maryland Health Progress Act*

[SB 274/HB 228](#), the Maryland Health Progress Act of 2013, were before House and Senate committees this week. These Administration bills modify State law to further implement federal health care reform under the federal Patient Protection and Affordable Care Act. The bills expand Medicaid eligibility, establish a dedicated funding stream for the Maryland Health Benefit Exchange from the insurance premium tax on health insurers and for-profit health maintenance organizations, provide for the transition of Maryland Health Insurance Plan enrollees into the exchange, establish a State reinsurance program, and establish continuity-of-care requirements.

The bills take effect June 1, 2013, with the exception of the Medicaid provisions, which take effect January 1, 2014, and the continuity-of-care requirements, which take effect January 1, 2015.

### *Cancer*

The Senate gave a favorable preliminary floor vote to [SB 380](#), which requires the Department of Health and Mental Hygiene, in consultation with the Maryland Department of the Environment, to convene a workgroup to examine issues relating to the investigation of potential cancer clusters in the State and potential environmental causes of cancer and present a report by June 30, 2014. Each chamber passed its version of the legislation during the 2012 regular legislative session, but the bills failed to cross over from the opposite chambers. The crossfiled measure is [HB 1343](#).

---

## TRANSPORTATION

### *Bike Helmets – Required*

Under current law, an individual younger than age 16 may not ride a bicycle on any highway, bicycle way, or other property open to or used by the public for pedestrian or vehicular traffic unless the individual is wearing a helmet. Heard by a committee this week, [HB 339](#) prohibits a person, regardless of age, from operating or riding as a passenger on a bicycle under the same circumstances unless the individual is wearing a helmet.

### *Mopeds – Valid Driver’s License*

[HB 3](#) requires the operator of a moped or motor scooter to possess a *valid* driver’s license or moped operator’s permit. Recently, several actions brought against motor scooter operators without valid driver’s licenses were dismissed because the current law does not specify that

the required driver’s license or moped operator’s permit has to be valid.

### *Smoking in Motor Vehicles*

Under companion bills [SB 30/HB 528](#), a driver of a motor vehicle may not smoke a tobacco product in a vehicle in which a child younger than age eight is a passenger. The bills also prohibit the driver from allowing vehicle passengers to smoke in the presence of such a child. While the offense is not a moving violation for which points may be assessed, it is subject to a maximum fine of \$50.

### *Collection of Tolls*

Recently considered by a committee, [HB 420](#) is a departmental bill that clarifies and alters Maryland Transportation Authority (MDTA) procedures by providing a clear framework, generally consistent with current practice, for collecting unpaid electronic tolls. Also, MDTA is authorized to enter into an agreement with another jurisdiction for reciprocal enforcement of toll violations between the State and another jurisdiction. This will permit more effective processes for collecting unpaid tolls and prevent Maryland residents from subsidizing the tolls of out-of-state violators.

Under current law, if a motor vehicle operator fails to pay a prescribed toll at any MDTA highway where tolls are collected electronically, the registered owner of the motor vehicle is liable for payment of the toll and a \$50 civil penalty. However, this approach was developed when a customer’s failure to immediately pay a toll was generally regarded as a deliberate act to disregard the toll and was prior to the introduction of all electronic and open-road tolling methods.

[HB 420](#) provides a process to ensure that people who do not pay cash or use an E-ZPass are not immediately considered violators. Currently, MDTA attempts to collect unpaid tolls without implementing a citation until after sending the person a failure to pay notice. Thus, current law is inconsistent with MDTA’s current practices.

### *Kara’s Law – Failed*

A House committee voted unfavorably on [HB 150](#) (failed). The bill would have repealed the requirement that in order to administer a test of blood or breath the police officer must have reasonable grounds to believe that the person committed an alcohol- and/or drug-related driving offense if the person was involved in an accident that results in death or life-threatening injury.